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SIPDIS

STATE FOR S/WCI (L. RICHARDS), EUR/WE

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TAGS: [PREL](#) [PINR](#) [KJUS](#) [PGOV](#) [SP](#)

SUBJECT: SPAIN: GUANTANAMO DETAINEE RELEASED ON BAIL

Classified By: CHG J. ROBERT MANZANARES, REASONS 1.4 (B, D)

1. (C) Legat and other agencies have met and consulted at length on the release on bail July 13 of Hamed Abderrahman Ahmed. While there is disappointment within the rank and file of the Spanish National Police, they emphasize that it was a provisional release on bail. Prosecutorial Magistrate Baltasar Garzon has not dropped the case. He set the bail low, however, at 3,000 euros. The police emphasize that Abderrahman is required to report on a daily basis to his local police headquarters and on a weekly basis to the courts. The police continue to collect evidence. As with other al Qaeda related cases (such as the al Qaeda cell led by Eddin Barakat Yarkas who was arrested in November 2001 and is still awaiting trial), a trial would likely not take place for several years.

2. (C) The Department asked whether the USG had an arrangement with the Government of Spain that the USG would release Abderrahman to the Spanish only if they prosecuted him. The USG did not premise the transfer specifically on an agreement to prosecute; though the USG emphasized to the USG our understanding he would be prosecuted, the Spanish government does not have authority over the Spanish court system or its magistrates. In seeking Abderrahman's transfer, the MFA did tell us formally that he was sought by Spanish courts under the charge of membership in a terrorist organization.

3. (C) Comment: Garzon is an outspoken critic of the US policy on Guantanamo detainees. He is also the Spanish judiciary's most aggressive investigator of al Qaeda-related terrorists, having indicted over thirty, twelve of whom are in custody. While bail for Abderrahman is low, the provisions of reporting daily to a police station are stringent by Spanish standards. The media report that Abderrahman will live in his native Ceuta. Regardless of Garzon's discomfort with Guantanamo, we expect that he will not drop the case if he has solid evidence against Abderrahman to present to the prosecutor. The Spanish media have tended to portray Abderrahman as a victim of the US and skirt over or ignore his previous residence in Afghanistan and al Qaeda connections.

MANZANARES